

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

NOTICE OF APPEAL FROM THE EXAMINER  
TO THE BOARD OF APPEALS

AF/376/4  
IFW

Applicant(s): Jackson et al.  
Serial No.: 09/894,042  
Filed: June 28, 2001  
For: Tampon Applicator  
Examiner: Michele M. Kidwell  
Art Unit: 3761  
Confirmation No.: 5504  
Customer No.: 27623 Attorney Docket: 460.2125USU

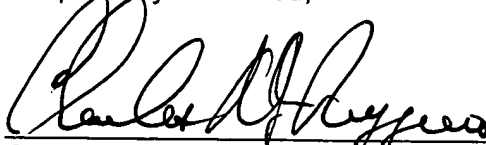
Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

We are enclosing for filing in the above-identified application the following:

1. Notice of Appeal;
2. Petition for Extension of Time;
3. Amendment After Final;
4. Declaration with Exhibits, including form 1449 (3 sheets);
5. Firm's Check for \$1,280 (Notice of Appeal - \$330.00, Extension of Time - \$950)
6. Transmittal letter in duplicate; and
7. Postcard.

Please charge any additional fees or credit any such fees, if necessary to Deposit Account No. 01-0467 in the name of Ohlandt, Greeley, Ruggiero & Perle. A duplicate copy of this sheet is attached.

Respectfully submitted,



Charles N. J. Ruggiero, Esq.  
Attorney for Applicant(s)  
Registration No. 28,468  
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.  
One Landmark Square, 10th Floor  
Stamford, CT 06901-2682  
Telephone: (203) 327-4500  
Telefax: (203) 327-6401

July 27, 2004  
Date

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL, IN AN ENVELOPE ADDRESSED TO: MAIL STOP AF, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450, ON JULY 27, 2004.

Mary R. Charles  
NAME

  
SIGNATURE

7/27/04  
DATE



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Jackson et al.  
Serial No.: 09/894,042  
Filed: June 28, 2001  
For: TAMPON APPLICATOR  
Examiner: Michelle Kidwell  
Art Unit: 3761  
Confirmation No.: 5504  
Customer No.: 27623

Attorney Docket No.: 460.2125USU

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Washington, D.C. 22313-1450

Declaration

Dear Sir:

This Declaration is submitted to accompany the Amendment  
After Final filed on even date.

1. I, Charles N.J. Ruggiero, am an attorney of record in  
the above-identified application.

2. I attended a personal interview with Examiner Kidwell on July 20, 2004, at which time submission of documents from a pending litigation was discussed as noted in the Interview Summary.

3. Exhibit A is a form 1449 listing the court documents that were previously submitted, but not entered, with the Supplemental Information Disclosure Statement of April 22, 2004. The documents, as Examiner Kidwell showed to me during the interview, are already in the USPTO file for this application.

4. Exhibit B is a form 1449 listing the court documents that I noted during the interview, along with a copy of each document, since these documents have not been previously submitted to the USPTO.

I hereby declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true. I further declare that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued

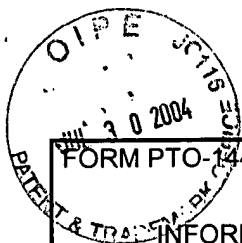
thereon.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles N.J. Ruggiero". The signature is fluid and cursive, with the first name "Charles" being more prominent and the last name "Ruggiero" following in a similar style.

Charles N.J. Ruggiero





FORM PTO-1449

INFORMATION DISCLOSURE CITATION  
IN AN APPLICATION

(Use several sheets if necessary)

Docket Number (Optional)

460.2125USU

Application Number

09/894,042

Applicant

Jackson, D.

Filing Date

June 28, 2001

Group Art Unit

3761

## U. S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE

## FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						YES	NO

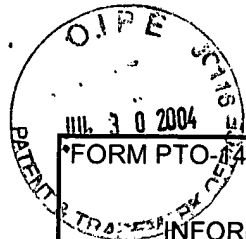
## OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

	Rebuttal Expert Report of Mario A. Turchi, December 27, 2002
	Rebuttal Expert Report of Mario A. Turchi, Defendant's Exhibit 40, April 2, 2003.
	Expert Report of G.A.M. Butterworth, November 22, 2002.
	Rebuttal Expert Report of G.A.M. Butterworth, January 19, 2003.
	Expert Report of James Moller, Ph.D., P.E., November 26, 2002.

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP §609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.



\*FORM PTO-449

INFORMATION DISCLOSURE CITATION  
IN AN APPLICATION

(Use several sheets if necessary)

Docket Number (Optional)

460.2125USU

Application Number

09/894,042

Applicant

Jackson, D.

Filing Date

June 28, 2001

Group Art Unit

3761

## U. S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE

## FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	Translation	
						YES	NO

## OTHER DOCUMENTS (including Author, Title, Date, Pertinent Pages, Etc.)

	Playtex Products, Inc. v. Proctor & Gamble Co. and Proctor & Gamble Distributing Co., Appeal from the US District Court for the Southern District of Ohio in Case No. 02-CV-00391, District Judge Thomas M. Rose, Non-Confidential Joint Appendix, June 9, 2004.
	Playtex Products, Inc. v. Proctor & Gamble Co. and Proctor & Gamble Distributing Co., Appeal from the US District Court for the Southern District of Ohio in Case No. 02-CV-00391, District Judge Thomas M. Rose, Non-Confidential Reply Brief of Appellant, May 28, 2004.
	Playtex Products, Inc. v. Proctor & Gamble Co. and Proctor & Gamble Distributing Co., Appeal from the US District Court for the Southern District of Ohio in Case No. 02-CV-00391 Judge Thomas M. Rose, Non-Confidential Brief for Defendants-Appellees the Proctor & Gamble Company and the Proctor & Gamble Distributing Company, May 12, 2004.
	Playtex Products, Inc. v. Proctor & Gamble Co. and Proctor & Gamble Distributing Co., Appeal from the US District Court for the Southern District of Ohio in Case No. 02-CV-00391, District Judge Thomas M. Rose, Non-Confidential Brief of Appellant, April 2, 2004.

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP §609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.